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MEMORANDUM

To: Hon. Howard Lutnick, Secretary, US Department of Commerce
Hon. Laura Grimm, Acting Administrator, NOAA

From: Andrew Langer, Director, Center for Regulatory Freedom, CPAC Foundation

Date: September 5, 2025

Re: Comments on the National Oceanic and Atmospheric Administration's Proposed Rule, Deep Seabed Mining: Exploration License and Commercial Recovery Permit Applications, Docket NOAA-NOS-2025-0108, Published in the Federal Register July 7, 2025.

Below are comments of the American Conservative Union Foundation's (d/b/a. Conservative Political Action Coalition Foundation) (hereinafter "CPAC Foundation") Center for Regulatory Freedom (hereinafter "CRF"), in response to the National Oceanic and Atmospheric Administration's (NOAA) Proposed Rule, "Deep Seabed Mining: Exploration License and Commercial Recovery Permit Applications", Docket NOAA-NOS-2025-0108, published in the Federal Register July 7, 2025.

CRF is a project of the CPAC Foundation, a non-profit, non-partisan 501(c)(3) research and education foundation. Our mission is to inject a common-sense perspective into the regulatory process, to ensure that the risks and costs of regulations are fully based on sound scientific and economic evidence, and to ensure that the voices, interests, and freedoms of Americans, and especially of small businesses, are fully represented in the regulatory process and debates. Finally, we work to ensure that regulatory proposals address real problems, that the proposals serve to ameliorate those problems, and, perhaps most importantly, that those proposals do not, in fact, make public policy problems worse.

Introduction

The United States is at a pivotal moment in the race for control over the world's critical mineral resources. Rare earth elements, cobalt, nickel, and other deep-sea minerals form the backbone of emerging technologies that power everything from advanced weapons systems and renewable

energy infrastructure to smartphones and electric vehicles. As global demand accelerates, nations are racing to secure access to these materials—and China, in particular, has moved aggressively to dominate the supply chain. The United States cannot afford to fall behind. The decisions we make now, including how we regulate access to deep seabed resources, will shape our ability to compete, defend our national interests, and remain economically resilient in the years ahead.

While U.S. companies possess the technological capability to lead in deep-sea exploration and resource extraction, their efforts are too often undercut by slow, costly, and unpredictable regulatory hurdles. In contrast, foreign competitors—especially those backed by state-controlled regimes—can move with speed and coordination, often sidestepping the kinds of procedural delays and environmental review duplications that bog down U.S. firms. Every year lost to red tape is a year that adversarial powers consolidate market share and strategic influence. Regulatory inertia doesn't just harm individual businesses—it puts the entire U.S. economy and national security at risk.

Permitting complexity is at the heart of the problem. When agencies require multiple rounds of application, duplicative environmental reviews, and burdensome paperwork—with no clear timelines or appeal mechanisms—companies are forced to wait, spend, and speculate. This imposes disproportionate harm on small and mid-sized businesses, who often operate with limited capital and narrow planning windows. But even larger firms may shift resources to more predictable regulatory environments overseas. The result is an uneven playing field that advantages foreign producers and leaves America vulnerable to resource dependency.

This vulnerability is not theoretical. China's dominance in rare earths has already created serious chokepoints in global manufacturing. Should geopolitical tensions escalate, access to these critical materials could be weaponized—jeopardizing U.S. defense readiness, energy transition goals, and economic stability. To counter this, the United States must accelerate domestic and allied production capacity. That begins with reforming the permitting framework for deep seabed mining and related offshore resource activities. Efficiency and environmental stewardship can coexist, but only if the system is designed to facilitate progress—not obstruct it.

For these reasons, the Center for Regulatory Freedom (CRF) views NOAA's proposed rule not just as a bureaucratic update, but as a litmus test for whether the U.S. government is prepared to compete in the 21st-century global resource economy. We support the agency's efforts to modernize its permitting structure—but we also urge NOAA to go further. To remain competitive, America needs a regulatory system that is fast, fair, and focused—one that empowers its innovators, not hinders them. This is not simply a matter of economics; it is a matter of national security.

Executive Summary

The Center for Regulatory Freedom (CRF), a division of the CPAC Foundation, offers these comments on NOAA's proposed revisions to its deep seabed mining regulatory framework under the Deep Seabed Hard Mineral Resources Act (DSHMRA). CRF supports aspects of NOAA's effort to modernize its permitting process but raises significant concerns about affordability, transparency, and regulatory burden—particularly for small businesses and innovators.

Support for Streamlining and Modernization

CRF strongly endorses NOAA's efforts to consolidate the exploration license and commercial recovery permit into a single, unified application process. The shift from dual-track reviews to an integrated permitting pathway is a substantial improvement that reduces redundancy, shortens

regulatory timelines, and aligns with best practices in modern governance. Similarly, NOAA's move to digital applications eliminates outdated paper-based requirements, saving applicants time and money while improving transparency and efficiency.

These reforms are particularly beneficial for small businesses, which often struggle with compliance costs and process complexity. CRF commends NOAA for advancing a system that enhances predictability, accelerates access to critical minerals, and promotes fairer participation in offshore economic opportunities. These changes directly align with national objectives around critical mineral independence, economic competitiveness, and responsible deregulation.

Concerns and Areas of Opposition

Despite supporting the broader direction of the rule, CRF identifies four key areas of concern:

- **Excessive Application Fee (\$350,000):** NOAA proposes a consolidated application fee of \$350,000—an amount that CRF argues is disproportionate and potentially exclusionary. For startups and small marine tech firms, this fee may present a prohibitive barrier to market entry. CRF urges NOAA to consider tiered or scaled fee structures based on company size or financial capacity to prevent market consolidation among only large players.
- **Potential for Redundant Environmental Review:** The rule allows for the possibility of requiring two separate Environmental Impact Statements (EIS)—one for exploration and one for recovery. CRF cautions that this could lead to duplicative efforts, costly delays, and regulatory uncertainty without delivering additional environmental benefits. CRF recommends clearer guidelines to avoid unnecessary procedural repetition and to prioritize streamlined, single-track environmental assessments when feasible.
- **Residual Paperwork Burden:** Even with digital reforms, NOAA estimates over 4,000 annual burden hours and nearly \$478,000 in wage costs per applicant. CRF views this as excessive and a potential deterrent to participation, particularly for small and mid-sized enterprises. The agency should do more to reduce these costs through smarter form design, pre-filled templates, and elimination of duplicative information requests.
- **Broad, Unchecked Agency Discretion:** CRF expresses concern over NOAA's retention of open-ended discretion across key regulatory touchpoints—including fee adjustments, review timelines, and EIS requirements. Without clear standards or procedural safeguards, this flexibility risks inconsistent or politically motivated decision-making. CRF urges NOAA to adopt defined timelines, appeals processes, and transparent criteria to ensure fairness and accountability.

CRF supports the intent and direction of NOAA's proposal to modernize and streamline the deep seabed mining permitting process. However, unless the identified concerns are addressed—particularly regarding fee fairness, environmental review duplication, and unchecked discretion—the rule may unintentionally stifle innovation, disadvantage small players, and erode regulatory trust. CRF encourages NOAA to revise the rule accordingly to promote a more inclusive, transparent, and innovation-friendly regulatory environment.

NOAA's Proposal

Authority & Context

NOAA's proposed rule updates its regulatory framework under the Deep Seabed Hard Mineral Resources Act of 1980. The original statute created a licensing scheme for companies to explore and conduct commercial recovery operations targeting polymetallic nodules located beyond national jurisdiction—specifically in the deep seabed of the international seabed area. These regulations, nearly half a century old, reflect the legal, technical, and administrative environment of the 1980s. Since then, deep-sea technologies—including remotely operated vehicles (ROVs), autonomous underwater vehicles (AUVs), advanced mapping systems, and enhanced in-situ processing tools—have dramatically advanced. NOAA's update aims to modernize the regulatory structure to reflect these developments, removing obsolete procedural requirements and aligning with contemporary offshore industrial practices.

Additionally, the updates are made in line with recent executive policy. Executive Order 14285, titled "*Unleashing America's Offshore Critical Minerals and Resources*", was issued in April 2025 under President Trump's administration. The EO raises offshore minerals—including polymetallic nodules—as strategic resources critical to national economic and security interests. Leveraging this executive direction, NOAA seeks to streamline access to such deep-sea critical minerals, balancing efficient regulatory oversight with environmental and procedural safeguarding. In essence, NOAA frames these updates as both technical modernization and fulfillment of the administration's broader agenda to promote domestic and international access to offshore critical resources.

Consolidated License & Permit Process

Under the current regulatory setup, applicants must submit and obtain separate authorizations for each phase: first, an exploration license, and only after successful exploration could they apply for a commercial recovery permit. This sequential process inherently generates delays, redundant review steps, and administrative inefficiencies. Applicants face two distinct application rounds, each potentially triggering separate environmental reviews, hearings, and document submissions—doubling procedural burdens.

The proposed rule would allow applicants to submit simultaneously a consolidated application package that combines both exploration licensing and commercial recovery permitting under one unified process. This consolidation is designed to reduce administrative duplication, shorten total review timelines, and lessen redundancy in technical and environmental documentation. Instead of two separate filings and evaluations, NOAA would evaluate one integrated submission. This could allow smoother transition from exploration to recovery, provided the applicant meets regulatory standards for both phases. In practice, applicants would still need to satisfy all substantive requirements, but the administrative architecture would be streamlined.

By merging these steps, NOAA anticipates a more predictable and expedited process that maintains environmental rigour while reducing overhead. It also aligns with modern regulatory practices favoring integrated permitting regimes for complex, multi-stage projects. Applicants gain clarity by knowing both phase-gate criteria upfront and by submitting full project intent at once.

Electronic Applications

Another major change proposes full transition to electronic submission of applications. Historically, NOAA's rules required submission of 25–30 paper copies of each application—an onerous, outdated requirement rooted in pre-digital regulatory infrastructure. Preparing, printing, and mailing

tens of physical volumes imposes time delays, high printing costs, logistical coordination, and environmental waste.

The proposed update eliminates that requirement entirely. All applications must now be submitted electronically, with each submission organized (“formatted by regulatory section”) according to NOAA’s specified structure. Electronic filing enables web-based submission portals, reduces paper usage, and improves flexibility in managing large datasets (such as geotechnical or geochemical survey files, bathymetric maps, and environmental assessments).

This modernization improves accessibility—applicants can submit large digital files, NOAA reviewers can share and archive electronically, and the process becomes faster, more efficient, and more environmentally sustainable. The requirement ensures that all documentation aligns with the underlying regulatory structure, aiding both applicants and NOAA in reviewing content systematically.

Fee Adjustments

With the move toward a consolidated application model, NOAA proposes adjusting the fee structure accordingly. Under the current rule, applicants pay \$100,000 each for the exploration license and the recovery permit. The proposed consolidated pathway would require a single combined application fee of \$350,000—reflecting the integrated nature of the permitting process and presumably internal cost savings from reduced duplication.

The new consolidated fee—\$350,000—represents a substantial investment, higher than either fee alone and slightly less than paying both separately (\$200,000). In effect, the consolidated fee is 75% higher than \$200,000, breaking previous norms. NOAA states it is open to public comment on alternative cost structures, suggesting the \$350,000 figure is a proposal rather than a fixed number. Stakeholders may suggest fees scaled to application complexity, economic capacity, or environmental risk, or propose tiered or staged fee schedules to accommodate varying company sizes or project scopes.

By soliciting comments, NOAA seeks data to ensure that cost recovery aligns with administrative burden, reflects the value of streamlining, and remains fair—especially to small firms. It’s possible that the final fee structure might be adjusted in response to feedback.

Paperwork Burden Reduction

NOAA estimates that the combined effects of the consolidated process and electronic filing will reduce duplicative reporting, eliminate some adjudicatory hearings, and speed up regulatory reviews—cutting applicant burden by roughly 100 days. Currently, separation of the licensing and permitting phases creates repeated documentation, potentially separate hearings and Environmental Impact Statement (EIS) preparations, which cumulatively add significant time.

With a single application, review periods can overlap, hearings can focus on integrated project scope, and EIS preparation or scoping can be done once rather than twice. Electronic filing further enables faster document exchange, automated compliance checks, and streamlined administrative tracking. The result: faster decisions, lower opportunity costs for applicants, and reduced time to market for critical mineral development.

A 100-day savings is non-trivial in commercial cycles—particularly for firms planning global investment timelines or coordinating with ship schedules, mining vessel charters, and offshore logistics. For companies operating on tight funding or limited exploration windows, accelerating

schedule by over three months could substantially affect economic viability. NOAA's estimate quantifies this impact, offering a tangible benefit to stakeholders, especially under tight project timelines or budgetary constraints.

Small Business Impacts

NOAA acknowledges that the pool of potential U.S. applicant firms under DSHMRA is small—estimated to be around seven businesses nationwide. Of these, it recognizes four that qualify as small businesses under relevant SBA standards or NOAA's criteria. Despite the small applicant base, NOAA conducted a Regulatory Flexibility Analysis to assess economic impact.

The analysis finds that the consolidated and electronic approach will *generally reduce compliance costs*, rather than increase them. Eliminating redundant steps, cutting hearings, streamlining paperwork, and shortening throughput time all reduce administrative burden. Small firms benefit in particular, gaining quicker turnaround and lower out-of-pocket costs tied to printing, legal fees, repeated reviews, and extended project timelines.

NOAA thus contends the proposed rule does not impose undue hardship on small businesses; instead, it enhances their capacity to compete. The consolidated permit may require a larger up-front investment (e.g. the \$350,000 fee, if finalized), but the associated savings from reduced paperwork, faster approvals, and no duplicate hearings may offset or exceed that. The regulatory flexibility analysis likely quantifies these trade-offs and suggests small firms will gain, not be unduly burdened.

Environmental Review

NOAA confirms that the substantive environmental protections embedded in the existing regulations remain unchanged. The changes are purely procedural—not altering any environmental standards, thresholds, or required mitigation. Applicants must still submit robust environmental analyses, adhere to baseline sampling, conduct monitoring, enforce marine protection measures, and comply with applicable international obligations.

However, the procedural vehicle for environmental review is simplified. Rather than a separate Environmental Impact Statement (EIS) for exploration and another for recovery, consolidated applications may be accompanied by a single EIS that covers both phases. This enables holistic ecological assessment of the full project lifecycle—from seabed disturbance during exploration to large-scale nodule collection during recovery.

Notably, NOAA states that it considers the rule may qualify for a categorical exclusion under NEPA—meaning the procedural change itself might not trigger a full environmental review. Yet it also acknowledges that applicants still must undergo full EIS obligations for licenses and permits. In other words, while NOAA itself might not need to conduct NEPA analysis solely because of the procedural shift, the substantive regulatory actions (license and permit issuance) each still carry EIS requirements. If the combined application triggers EIS, it will address both phases; and if an existing documentation suffices, NOAA may rely on it accordingly.

This approach preserves environmental oversight while recognizing administrative efficiencies. NEPA obligations remain intact, but content is refocused into one unified document, potentially streamlining public review, scoping, comment periods, and interagency coordination—all while maintaining environmental integrity.

Areas of CRF Support for the NOAA Proposal

1. Streamlining and Deregulation

The Center for Regulatory Freedom (CRF) strongly supports NOAA’s efforts toward streamlining, consolidation, and digitization of permitting and review processes as proposed in NOAA-NOS-2025-0108-0001. These reforms are not just welcome—they are essential. In an era of bureaucratic overreach, this proposal represents a rare, meaningful step toward regulatory modernization. It aligns directly with the intent and spirit of Executive Order 14192, Unleashing American Prosperity Through Deregulation, by reducing unnecessary procedural burdens, eliminating duplicative red tape, and introducing digital efficiencies that can cut government waste while fueling American productivity.

The current permitting environment too often operates like a bottleneck, particularly in sectors that depend on timely and predictable access to land, coastal, or marine resources. Multiple layers of review, overlapping agency authority, and antiquated paperwork-based systems translate into long delays, excessive compliance costs, and missed economic opportunities. NOAA’s proposed rule rightly recognizes that inaction and indecision within regulatory frameworks can be just as damaging as overregulation. In consolidating and simplifying review processes—particularly those that pertain to critical resource extraction and infrastructure development—this rule promises to accelerate timelines, clarify responsibilities, and allow both public and private actors to operate with greater efficiency.

Digitization is especially important. Moving away from paper-driven, manual workflows and embracing digital platforms will help standardize submissions, improve transparency, and enhance interagency coordination. It also makes government more accessible and accountable, giving stakeholders better tools to track progress, respond to inquiries, and resolve disputes without getting lost in an opaque system. For the regulated community—particularly small and mid-sized businesses without deep compliance departments—this is a game changer.

These reforms represent regulatory policy at its best: simplifying the process, speeding the outcome, and reducing the burden on American innovators and builders. CRF encourages NOAA to go even further in future phases of reform—applying similar streamlining approaches to other parts of its rulemaking and permitting regimes. As an advocate for smarter, leaner governance, CRF applauds this proposal as a model for what principled deregulation should look like. We urge NOAA to adopt these reforms swiftly and resist any calls to dilute them with new layers of process or political caveats. Prosperity depends on action, and action requires a regulatory system that works.

2. Critical Minerals Independence

The CRF views NOAA’s proposed regulatory streamlining as a direct contribution to U.S. national interests—specifically, securing critical mineral independence in a time of rising global instability and strategic competition. By facilitating faster and more predictable permitting for projects that access or transport critical minerals and related infrastructure, NOAA is helping to remove one of the biggest barriers to American resource security: bureaucratic delay.

Critical minerals such as rare earth elements, lithium, cobalt, and nickel are not merely economic commodities—they are essential building blocks of modern defense systems, clean energy technologies, and next-generation electronics. Yet the United States remains alarmingly dependent on foreign—and often adversarial—suppliers, particularly the People’s Republic of China, for many

of these materials. This dependency is a glaring vulnerability that threatens both economic resilience and national security. The U.S. cannot remain exposed to the geopolitical leverage of foreign adversaries who dominate these markets. We must build and control our own supply chains.

NOAA's proposal supports this strategic imperative by helping to streamline reviews for projects that may involve offshore mining, coastal infrastructure, and logistical support systems necessary for critical mineral production. Faster and more efficient environmental reviews reduce the risk that vital projects are delayed into irrelevance or abandoned under the weight of uncertainty. Regulatory inertia should not be a de facto veto on American competitiveness.

CRF also believes that NOAA's actions complement broader national efforts—across DOD, DOE, DOI, and now NOAA—to establish resilient, domestic supply chains for rare earths and strategic materials. By doing its part to remove friction from the permitting process, NOAA is aligning with congressional mandates and executive priorities that recognize resource independence as a national security objective.

This is not a call to eliminate environmental standards. It is a call to apply them efficiently, clearly, and without ideological bias. The status quo—where environmental review processes often become tools of obstruction, rather than tools of stewardship—has helped adversarial powers gain leverage over our economy. The United States cannot afford to let procedural paralysis stand in the way of resource security. CRF supports this proposed rule precisely because it shifts the regulatory default from delay to delivery.

3. Small Business Benefits

NOAA's proposal, in simplifying and consolidating duplicative regulatory reviews, represents a meaningful win for small businesses—a constituency too often overlooked in the administrative state. For the CRF, which has long advocated for strict adherence to the Regulatory Flexibility Act (RFA) and the Paperwork Reduction Act, this rule reflects progress toward the kind of regulatory environment where entrepreneurship can thrive.

Small businesses are the backbone of American innovation, particularly in industries like marine technology, coastal engineering, offshore services, and environmental monitoring. These firms often operate at the cutting edge, bringing disruptive ideas and agile solutions to bear on old problems. But they also face steep regulatory hurdles. Unlike large corporations, small firms lack the in-house legal teams and compliance officers to navigate a labyrinth of overlapping permitting regimes. Every form, every delay, every conflicting review is a barrier that favors incumbents and stifles competition.

The proposed rule begins to correct this imbalance. By reducing duplicative processes and introducing digital tools, NOAA lowers the compliance cost curve for small firms. This increases their ability to compete on a level playing field and opens the door to broader participation in coastal and ocean-related projects. In other words, the rule promotes not just efficiency but fairness.

Additionally, the increased regulatory certainty offered by this rule is particularly valuable to small businesses, which operate on tighter margins and cannot afford to wait months—or years—for permit decisions. Delayed reviews often mean delayed capital, missed windows, and lost contracts. By committing to clearer timelines and more coordinated decision-making, NOAA is helping to create the kind of predictable environment in which entrepreneurs can invest, hire, and grow.

CRF recommends that NOAA explicitly highlight these benefits to small entities in its final rule and consider further RFA-driven assessments to ensure that implementation continues to prioritize small business participation. Future guidance documents and outreach should also include technical assistance tailored to smaller firms navigating the new digital submission platforms and review processes.

In short, this rule doesn't just deregulate—it democratizes access to economic opportunity. And for a regulatory regime to be truly just, that's exactly what it must do.

4. Regulatory Certainty

The Center for Regulatory Freedom applauds NOAA for recognizing a core truth too often ignored in Washington: uncertainty is itself a form of regulation. When rules are vague, timelines unclear, and authority fragmented, businesses and investors are forced to delay decisions, hedge their risk, or withdraw from otherwise promising ventures. This is not a theoretical problem—it's a practical one, and it costs the U.S. economy billions annually in lost productivity and unrealized investment.

The proposed rule addresses this challenge directly by consolidating agency reviews, aligning permitting processes, and simplifying the procedural pathways for compliance. This delivers what businesses value most: clarity. In sectors as complex and capital-intensive as critical mineral extraction, coastal infrastructure, and marine logistics, clarity is the difference between action and inaction. Investors don't just want green lights—they want to know when, how, and under what conditions they can expect to get one.

Predictable, transparent regulatory processes reduce risk, which in turn lowers the cost of capital and unlocks innovation. Firms are more likely to pursue bold ideas or build new capabilities when they can model regulatory timeframes with confidence. Conversely, when delays are indefinite and review criteria unclear, projects are shelved or moved abroad. NOAA's proposed changes help reverse this trend.

CRF also notes that regulatory certainty is essential not just for large-scale industrial projects, but for the entire innovation ecosystem—from startups designing new offshore energy systems to universities conducting applied marine research to private-public partnerships focused on critical infrastructure. All of these actors benefit when the rules are consistent, the processes digitized, and the timelines dependable.

We urge NOAA to formalize these improvements through performance benchmarks and public dashboards so that stakeholders can hold the agency accountable to its own timelines. Doing so will build further trust and institutionalize the culture shift this rule represents. Agencies should not just issue rules—they should measure their own efficiency in implementing them.

In sum, this proposal is more than a cleanup of process. It is a meaningful restoration of certainty in the regulatory space. And in a competitive global economy, certainty is a powerful form of comparative advantage.

Areas of Concern with NOAA's Proposal

1. Fee Increase to \$350,000: A De Facto Barrier to Market Participation

The proposed increase in application fees to \$350,000 under NOAA-NOS-2025-0108-0001 raises serious concerns about fairness, proportionality, and market access. While NOAA claims this increase merely reflects inflation and program cost recovery, the reality is that such a dramatic fee structure risks creating an insurmountable barrier to entry for small businesses, startups, and innovative firms that lack the capital reserves of large incumbents.

The Center for Regulatory Freedom (CRF) urges NOAA to reconsider the equity implications of a flat \$350,000 fee. This approach treats vastly different applicants—ranging from billion-dollar multinationals to small marine tech startups—as if they have the same financial capacity to absorb administrative costs. They do not. As a result, the proposed fee may inadvertently gatekeep participation in this critical emerging sector, consolidating opportunities among a few large players and stifling the very innovation and competition that drives environmental and economic progress.

NOAA should consider a tiered or scaled fee system, tied to objective business criteria such as revenue, market capitalization, or employee count. Alternatively, a cost-sharing or installment-based approach could be implemented, where smaller applicants pay a lower upfront fee with additional fees assessed upon successful approval or operation. These approaches are consistent with administrative law principles requiring that fees not be arbitrary, excessive, or discriminatory.

Moreover, the agency has not sufficiently demonstrated that the increased fee aligns with the actual costs incurred per application. Absent a detailed cost-benefit analysis or breakdown of internal resource allocations, the \$350,000 figure appears untethered from economic reality. Agencies bear the burden of justifying fee increases with transparent data, especially when such increases may price out legitimate stakeholders and reduce overall market dynamism.

CRF is also concerned with the broader economic signal this fee sends. At a time when public-private partnerships and market-based conservation strategies are being increasingly encouraged, such a steep financial threshold may deter participation and drive capital elsewhere. NOAA risks contradicting broader federal efforts to encourage private sector engagement in ocean-based industries.

In sum, the \$350,000 fee proposal reflects a one-size-fits-all approach that lacks both fairness and flexibility. CRF urges NOAA to adopt a more balanced, data-driven fee structure that supports broad participation, encourages innovation, and reflects the economic diversity of potential applicants.

2. Potential for Overly Burdensome EIS Requirements

The proposed rule suggests that in some cases, two separate Environmental Impact Statements (EIS) may be required—one for site characterization and another for site development. While NOAA frames this as an effort to ensure thorough environmental review, CRF sees potential for regulatory duplication, costly delays, and unnecessary procedural hurdles that do not meaningfully enhance environmental protection.

The National Environmental Policy Act (NEPA) mandates environmental review, but it also directs agencies to streamline and avoid redundant efforts. If not carefully calibrated, requiring multiple

EISs can undermine this mandate by elongating project timelines without producing additional environmental benefits. For applicants—particularly smaller firms or those operating on tight investment timelines—this could create fatal uncertainty.

CRF is particularly concerned about the lack of specificity in NOAA’s explanation of when two EISs would be required, what criteria would trigger this bifurcation, and how duplication would be avoided. The current language affords broad agency discretion without a clear framework, inviting inconsistent application and even the appearance of politicized decision-making.

Moreover, NOAA’s assumption that the preparation of two EISs can be done “efficiently” under current processes is unconvincing. Environmental reviews under NEPA are among the most time-consuming elements of federal project approvals, with EIS processes often taking years. Adding a second round—especially for projects that may not have materially changed in their impact profile—only deepens the risk of regulatory fatigue and investment deterrence.

CRF recommends that NOAA formally commit to a streamlined, single-review process where possible, with clear thresholds for when and why a second EIS may be required. The agency should also allow applicants to rely on tiered environmental reviews or supplemental analyses that build on prior work, rather than starting from scratch. Doing so would be fully consistent with CEQ guidance and judicial precedent, which emphasize efficiency and proportionality in NEPA implementation.

In its current form, the EIS framework under this rule proposal threatens to create a duplicative and unpredictable review process. CRF urges NOAA to revise this framework to minimize unnecessary environmental paperwork and to support timely, accountable regulatory decision-making.

3. Residual Paperwork Burdens Are Still Excessive

NOAA’s proposal under NOAA-NOS-2025-0108-0001 estimates a continuing annual paperwork burden of 4,155 hours and nearly \$478,000 in wage costs per applicant. These figures, while slightly reduced from previous estimates, remain excessive—especially for smaller firms with lean teams and limited administrative capacity.

The Center for Regulatory Freedom questions whether NOAA has fully embraced the Paperwork Reduction Act’s goal of minimizing unnecessary burdens. By the agency’s own estimates, applicants will still be forced to devote significant personnel resources—roughly equivalent to two full-time staffers working for an entire year—to complete documentation requirements that may or may not lead to project approval.

This level of administrative overhead not only disincentivizes participation but also risks skewing the applicant pool toward larger firms that can absorb the cost. The result? Reduced diversity, reduced competition, and a chilling effect on early-stage innovation.

What’s more, NOAA does not clearly justify how or why these paperwork requirements remain so high. What specific documents drive the bulk of these hours? Are there electronic submission systems in place? Has NOAA considered pre-populated templates, shared data repositories, or other digital tools to reduce applicant effort? The rule provides no concrete information about process modernization or attempts at burden reduction—despite the availability of proven strategies from other federal agencies.

CRF believes NOAA should be required to do more than acknowledge the burden—it must actively reduce it. A reevaluation of required forms, certifications, and duplicative information requests is in order. The agency should engage directly with industry stakeholders to identify paperwork pain points and revise its process accordingly.

Additionally, the opportunity costs of this paperwork burden—especially when considered alongside high fees and long review timelines—create a hostile environment for innovation. Firms may simply redirect resources elsewhere, particularly in sectors with lighter-touch regulatory frameworks. In a competitive global market, this can put U.S. marine industries at a disadvantage.

NOAA must embrace a serious commitment to paperwork reform. Anything less would undercut the regulatory efficiency the agency claims to be pursuing. CRF calls for a full audit of the proposed administrative burdens, along with meaningful reductions that support the agency's stated goals without imposing unsustainable costs.

4. Open-ended Discretion and the Risk of Arbitrary Implementation

Perhaps the most troubling feature of the proposed rule under NOAA-NOS-2025-0108-0001 is the degree of open-ended discretion retained by the agency. From application review timelines to environmental analysis requirements and fee adjustments, NOAA has reserved expansive authority to act without clear constraints or objective standards. This is an invitation for regulatory overreach and inconsistent decision-making.

CRF is particularly concerned that such discretion can be exercised in ways that are unpredictable or even politicized. The absence of binding timelines, for example, means applicants may be left in regulatory limbo for months—or even years—without recourse. Similarly, NOAA's ability to adjust fees or impose new conditions without stakeholder input raises serious due process concerns.

In regulatory design, clarity and constraint are essential. Agencies must not only operate within the bounds of their statutory authority but also articulate clear rules of the road that all participants can follow. When discretion is left unchecked, it creates a power imbalance between regulators and the regulated—one that can chill investment and invite litigation.

NOAA has offered vague reassurances about transparency and efficiency, but has failed to back these with enforceable standards. For example, there are no mandatory deadlines for review completion, no formal appeal process for disputed fee assessments, and no public oversight mechanisms for how discretion will be used. This is unacceptable.

CRF recommends that NOAA revise the rule to include specific timelines, decision standards, and procedural safeguards. The agency should also create a formal mechanism for applicants to challenge or appeal agency actions, and to obtain timely resolution. These checks and balances are critical for ensuring that regulatory power is used fairly and predictably—not as a moving target.

Without such reforms, NOAA's proposal risks undermining both trust and accountability in the regulatory process. CRF stands firmly against the codification of unchecked bureaucratic discretion and calls on NOAA to revise its framework in favor of clear, consistent, and accountable governance.

Conclusion

The Center for Regulatory Freedom commends the leadership at NOAA and the Department of Commerce for recognizing the urgency and strategic importance of deep seabed mining reform. In an era marked by fierce global competition for critical minerals, NOAA's willingness to modernize its regulatory framework represents a crucial step toward restoring America's competitiveness and reducing our dangerous dependence on foreign—often adversarial—sources of essential materials.

By streamlining application processes, embracing digital platforms, and signaling a commitment to regulatory clarity, NOAA has demonstrated forward-thinking governance at a time when it is sorely needed. These efforts align closely with national economic and security imperatives and reflect a growing recognition that efficiency in permitting is not at odds with environmental stewardship—it is a prerequisite for it. The leadership of Secretary Lutnick and Acting Administrator Grimm in driving this reform effort is not only commendable but deeply consequential.

At the same time, CRF encourages NOAA to go further—by addressing remaining concerns around cost burdens, paperwork overhead, and discretionary ambiguity. Doing so will ensure that the benefits of this rule are fully realized by the small businesses, innovators, and domestic producers who are essential to building resilient, secure supply chains.

The United States cannot afford to be a second-tier player in the global race for critical resources. NOAA's work on this rule shows a clear understanding of that reality, and with thoughtful refinement, this effort can become a model of how agencies across the federal government should approach 21st-century regulatory reform.

CRF is grateful for the opportunity to comment and stands ready to support NOAA and the Department of Commerce as they finalize this important rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Langer".

Andrew M. Langer
Director
CPAC Foundation Center for Regulatory Freedom